

902 KAR 45:075. Tanning facilities.

RELATES TO: KRS 217.920-928, 387.010, 21 C.F.R. 1040.20

STATUTORY AUTHORITY: KRS 217.924, 217.926

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.924 requires all indoor tanning facilities to register with the local health department and pay a fee not to exceed administrative costs of the program. KRS 217.926 requires the Cabinet for Health and Family Services to promulgate administrative regulations relating to the registration and monitoring of tanning facilities. This administrative regulation establishes the responsibilities of tanning facilities, the procedures for their registration and monitoring, and the required registration fee structure.

Section 1. Definitions.

- (1) "Consent" means to give assent or approval.
- (2) "Guardian" is defined by KRS 387.010(3).
- (3) "Minor" is defined by KRS 387.010(1).
- (4) "Parent" is defined by KRS 387.010(7)
- (5) "Protective eyewear" is defined by 21 C.F.R. 1040.20(6).
- (6) "Registration" means the issuance of a document by the local health department to a tanning facility authorizing the person named in the document to engage in the business of operating a tanning facility.
- (7) "Tanning device" is defined by KRS 217.920(2).
- (8) "Tanning facility" is defined by KRS 217.920(3).

Section 2. Tanning Facilities Registration.

- (1) A tanning facility shall register with the local health department in accordance with KRS 217.924(3) by submitting a completed application form DFS-303, Application for Certification/Registration, incorporated by reference in 902 KAR 45:065, and a fee of seventy-five (75) dollars to the district or county health department at the time of registration.
- (2) Registration shall be valid for one (1) calendar year and shall expire on December 31st of each year.

Section 3. Use by Minors. Minors shall not use a tanning device except in accordance with KRS 217.922.

Section 4. Facility Responsibilities.

- (1) A tanning facility shall give each customer a written statement in accordance with KRS 217.924(1) and 21 C.F.R. 1040.20.
- (2) Each tanning facility shall maintain written or electronic consent forms and records in accordance with KRS 217.924(2); and
- (3) Each tanning facility shall ensure patrons use protective eyewear by:
 - (a) Providing single use disposable eyewear; or
 - (b) Requiring patrons to provide their own eyewear.

Section 5. Monitoring.

- (1) The cabinet or local health department shall conduct on-site monitoring of a tanning facility upon:
 - (a) Initial facility registration; or
 - (b) Receipt of a complaint through the local health department.
- (2) Each monitoring visit shall be recorded using the DFS-400, Tanning Facility Registration/Monitoring (Rev. 2/19) form.

Section 6. Suspension of Registration.

(1) If a violation is discovered, the local health department shall serve a registered facility with a written notice by providing the DFS-400, Tanning Facility Registration/Monitoring (Rev. 2/19) form, specifying the nature of the violation and shall allow the facility thirty (30) days for corrective action.

(2) Reinspection shall be conducted no later than thirty (30) days following the issuance of the DFS-400. If the violation is unresolved, the facility shall receive an additional thirty (30) days to correct the violation.

(3) At the end of sixty (60) days, if the violation has not been corrected, the registration of the tanning facility shall be suspended. The notice of suspension shall be provided in accordance with 902 KAR 1:400 Section 1.

(4) A facility whose registration has been suspended may apply to the local health department for a re-inspection.

Section 7. Incorporation by Reference.

(1) "DFS-400, Tanning Facility Registration/Monitor" (Rev. 2/19) is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Public Health, Division of Public Health Protection and Safety, Food Safety Branch, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

(34 Ky.R. 511; Am. 761; eff. 10-17-2007; 45 Ky.R. 3314; eff. 9-9-2019.)